

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE DIVISION

HOLLY RYDMAN,

Plaintiff,

V.

CHAMPION PETFOODS USA, INC., a Delaware corporation,

Defendant.

Case No. 2:18-CV-01578-JHC

PRETRIAL ORDER

JURISDICTION

This Court had original jurisdiction over all causes of action asserted herein under the Class Action Fairness Act, 28 U.S.C. §1332(d)(2) (CAFA), because the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and more than two-thirds of the Class reside in states other than the states in which Defendant is a citizen and in which this case is filed. No exceptions to jurisdiction under 28 U.S.C. §1332(d) apply. Although the Court denied Plaintiff's Motion for Class Certification, it retains jurisdiction over this case under CAFA. *See United Steel, Paper & Forestry, Rubber, Mfg., Energy, Allied Indus. & Serv. Workers Int'l Union, AFL-CIO, CLC v. Shell Oil Co.*, 602 F.3d 1087, 1089 (9th Cir. 2010).

PRETRIAL ORDER

Case No. 2:18-CV-01578-TSZ

CLAIMS AND DEFENSES

At trial Plaintiff will pursue claims under Washington’s Unfair Business Practices and Consumer Protection Act, RCW § 19.86.010, *et seq.*

ADMITTED FACTS

1. Champion manufactures a variety of dry kibble dog food diets (also called formulations) under the ORIJEN and ACANA brand names.
2. Plaintiff resides in the state of Washington.
3. Champion Petfoods manufactured its dog food at issue in this case in Kentucky.
4. Champion Petfoods sold its dog food in the stream of commerce.
5. Plaintiff purchased the following ten Champion diets: Acana Heritage Free-Run Poultry, Acana Heritage Freshwater Fish, Acana Heritage Meats, Acana Regionals Grasslands, Acana Regionals Meadowland, Acana Regionals Wild Atlantic, Acana Singles Duck & Pear, Acana Singles Lamb & Apple, Acana Singles Pork & Squash, and Orijen Six Fish.

ISSUES OF LAW

The following are the issues of law to be determined by the court:

1. Whether Defendant engaged in an unfair¹ or deceptive act or practice.

¹ Champion’s position is that Plaintiff did not plead that Champion engaged in an “unfair” act or practice. Count I of Plaintiff’s Third Amended Complaint only alleges “deceptive” acts or practices and does not allege any “unfair” acts or practices. *See* Dkt. 156 at ¶¶ 238-251. Likewise, in opposing Champion’s motion for summary judgment, Plaintiff did not argue that Champion had engaged in an “unfair” act or practice. *See* Dkt. 128. Accordingly, because Plaintiff has not pled the theory of an “unfair” act or practice in violation of the Washington Consumer Protection Act, it should not be an issue for the jury’s consideration. Plaintiff’s position is that she properly pleaded unfair or deceptive practices as required under Washington law that states: “a deceptive act must have the capacity to deceive a substantial portion of the population [] and ‘misleads or misrepresents something of material importance’” *Lucero v. Cenlar FSB*, No. C13-0602RSL, 2014 WL 2972374, at *2 (W.D. Wash. July 1, 2014). *See* Dkt. 156 at ¶¶ 238-251 (discussing misleading, materiality, and deceptive nature of claims). Champion is trying to dissect the statutory language improperly that clearly states it is unfair or deceptive practices. As Champion solely attacked the deceptive nature of the claims at summary judgment, Plaintiff responded as to the arguments Champion made.

2. Whether the act or practice occurred in the conduct of Defendant's trade or commerce.²

3. Whether the act or practice affects the public interest.

4. Whether Plaintiff was injured in either her business or her property.

5. Whether Defendant's act or practice proximately caused Plaintiff's injury.

6. Whether Plaintiff is entitled to a full refund.

7. Whether Plaintiff is entitled to enhanced (up to treble) damages.

EXPERT WITNESSES

Each party shall be limited to two (2) expert witness(es) on the issues of liability and damages under the Consumer Protection Act and damages.

The name(s) and addresses of the expert witness(es) to be used by each party at the trial and the issue upon which each will testify is:

On behalf of Plaintiff:

1. Bruce Silverman – 3168 Dona Mema Place, Studio City, CA 91604 – Marketing – will testify.
2. Stephan Boedeker – 2200 Powell Street, Suite 1200, Emeryville, CA 94608 – Damages – will testify.

On behalf of Defendant:

1. Dr. Robert H. Poppenga, DVM, PhD – UC Davis School of Veterinary Medicine Maddy Lab, Davis, CA 95616 – may call.³

² The parties have stipulated and agree that the act or practice in question occurred in the conduct of Defendant's "trade or commerce." Therefore, this element of the CPA is satisfied, and the jury does not need to address it.

³ Champion lists Dr. Poppenga as a "May Call" witness in response to conferral with Plaintiff's counsel indicating her potential use of heavy metals or pentobarbital-related exhibits at trial, which in turn requires Dr. Poppenga to contextualize these substances for the jury. Champion contends that all testimony and evidence pertaining to heavy metals and pentobarbital are irrelevant and outside of the scope of this litigation, as it would violate the court's summary judgment ruling which dismissed heavy metals from this case and the plaintiff's agreement to voluntarily dismiss her pentobarbital claims. Dkt. 145; Dkt. 109, n.2 (explaining August 9, 2022 stipulation to drop pentobarbital-related theories). Champion is filing a motion in limine to exclude all testimony and evidence pertaining to heavy metals and pentobarbital, and thus Dr. Poppenga's testimony at trial

OTHER WITNESSES

The names and addresses of witnesses, other than experts, to be used by each party at the time of trial and the general nature of the testimony of each are:

On behalf of Plaintiff:

1. Plaintiff Holly Rydman (LIVE)– 1904 Overhulse Rd. NW, Olympia, WA 98502 will testify regarding her Champion Petfood purchases and the unfair and misleading packaging.
2. Peter Muhlenfeld (LIVE) (adverse) – [address unknown] - will testify regarding Champion Petfoods generally, including marketing, consumer research and manufacturing practices.
3. Jeff Johnston (LIVE) (adverse) – [address unknown] - will testify regarding Champion Petfoods generally, including marketing, consumer research and manufacturing practices.
4. Chris Milam (LIVE) (adverse) – [address unknown] - will testify regarding Champion Petfoods generally, including marketing, consumer research and manufacturing practices.
5. Jason Arnold – (may call by video) regarding Champion Petfoods’ marketing and manufacturing practices.
6. Jonathan Ellison – (may call by video) regarding Champion Petfoods’ marketing and manufacturing practices.
7. Amanda Flowers – (may call by video) regarding Champion Petfoods’ marketing and manufacturing practices.
8. Bonnie Gerow – (LIVE) (adverse) or (may call by video) regarding Champion Petfoods’ marketing and manufacturing practices.

is also dependent upon the court’s ruling as to that motion. By naming Dr. Poppenga, Champion reserves its objections to the admissibility of heavy metal or pentobarbital evidence under Rules 401 and 403. By email dated March 14, 2024, Plaintiff advised Defendant that she does not intend to put in any heavy metal evidence or other contamination evidence unless Defendant “opens the door” by putting in evidence for which heavy metal or other contamination might be called for to rebut. But because the Court dismissed the heavy metal part of the case, we did not expect it (heavy metals) to be an issue at all.

9. Gayan Hettiarachchi – (may call by video) regarding Champion Petfoods’ marketing and manufacturing practices.
10. Chinedu Ogbonna – (may call by video) regarding Champion Petfoods’ marketing and manufacturing practices.
11. Richard Raposo – (may call by video) regarding Champion Petfoods’ marketing and manufacturing practices.
12. Sarry Brown Tarry – (may call by video) regarding Champion Petfoods’ marketing and manufacturing practices.
13. Julie Washington – (may call by video) regarding Champion Petfoods’ marketing and manufacturing practices.
14. Christine Caswell – (may call by video) regarding Champion Petfoods’ marketing and manufacturing practices.
15. Krista Freier [Or another witness] (LIVE) Will call regarding 1006 Exhibits.
16. Champion Petfoods’ survey expert Dominique Hanssens – (LIVE) (adverse) or (may call by video) regarding his survey testimony.

On Behalf of Defendant:

1. Peter Muhlenfeld – c/o Winston & Strawn LLP, 200 S. Biscayne Boulevard, Suite 2400 Miami, FL 33131 (will call) regarding company background, development of the ORIJEN and ACANA brands and diets, and packaging statements on the diets at issue.
2. Jeffrey Johnston – Champion Petfoods Research & Innovation Centre, 301, 1103 95 St. SW Edmonton, AB, Canada T6X 0P8 (will call) regarding ingredient research and development, product and formula development, food safety, nutrition, production processes, ingredient procurement, and practices as to regrinds and “expired” ingredients.
3. Christopher Milam – Hampton Premium Meats, 517 E 4th Street Russellville, KY 42276 (will call) regarding fresh regional ingredient sourcing and procurement.

STIPULATIONS REGARDING WITNESSES

1. The Parties, expert witnesses, and outside and in-house counsel (not fact witnesses), shall be permitted to hear all testimony from all fact and expert witnesses at trial.

2. Fact witnesses shall be sequestered at trial, but may remain in the courtroom following completion of their direct and cross-examination testimony. Counsel shall not consult with any witnesses about their testimony during breaks until the witness is excused.

3. The parties have agreed to a procedure wherein both Plaintiff and Champion would conduct their direct examination of Mr. Milam when he is called in Plaintiff's case-in-chief. Mr. Milam is a former employee of Champion who resides in Kentucky and would be testifying voluntarily. Calling Mr. Milam only once will facilitate scheduling for Mr. Milam and increase trial efficiencies. Plaintiff has also offered that procedure to Defendant for witnesses Johnson and Muhlenfeld.

EXHIBITS & DEMONSTRATIVES

1. For the purposes of this Order, the term "demonstratives" shall refer to a visual or demonstrative aid that consists of a depiction of the evidence in any form and that is useful in helping a witness explain his/her testimony to the jury or to assist counsel in opening statement or closing. Callouts of exhibits or references to testimony for which there is no pending objection, shall not be considered a demonstrative for purposes of the disclosure deadlines referenced below.

2. Exhibits and/or Demonstratives in Opening Statements

Openings. The parties shall exchange demonstratives and identify all exhibits that they may reasonably anticipate using in opening statements by 9:00 a.m. PDT, 3 days **before start of trial**. Objections to the opening statement exhibits and/or demonstratives shall be exchanged by 7:00 p.m. PDT, two days **before the start of trial**. The parties shall meet and confer thereafter regarding any objections, and then present any outstanding issues to the Court for resolution as soon as practicable before trial.

Closings. The parties shall not be required to exchange demonstratives and/or exhibits for closing arguments.

3. ***Disclosure of Witness Order, Exhibits, and Demonstratives for Use During Direct and Cross Examinations***

a. The parties have exchanged good faith witness lists in a will call/may call format and will exchange updated final witness lists in a will call/may call format ten (10) **days before trial start date**. The final lists shall not list witnesses on the will call list that the party does not intend to call live. The parties shall identify the intended order of the witness(es) they intend to call live and by deposition on each day **by 9:00 a.m. PDT, two calendar days before the date on which the witness would go on the stand or the testimony would be played/read to the jury** (*i.e.*, witness(es) to be called/played Wednesday would be disclosed by 9:00 a.m. PDT on Monday morning). The parties shall notify each other as soon as they have definitively determined that they will no longer be calling any witness previously listed.

b. Exhibits and demonstratives to be utilized for the direct examination of a witness **shall be exchanged by 9:00 a.m. PDT two calendar days before the day the exhibits are to be used** (*i.e.*, exhibits and demonstratives to be used with a Wednesday witness would be disclosed/exchanged by 9:00 a.m. PDT on Monday morning). Objections to Direct Examination witnesses, exhibits and demonstratives shall be provided by 7:00 p.m. PDT on the same day they are first exchanged/disclosed. So, for example, witnesses or exhibits disclosed on Monday morning shall be objected to no later than 7:00 PDT that Monday evening.

c. Exhibits (but not demonstratives or impeachment materials) to be utilized for the cross examination of a witness shall be exchanged by 9:00 a.m. PDT one calendar day before the day such exhibits are to be used (*i.e.*, exhibits [but not demonstratives or impeachment materials] to be used with a Wednesday witness would be disclosed/exchanged by 9:00 a.m. on Tuesday morning). Objections to Cross Examination exhibits shall be provided by 7:00 p.m. PDT on the same day they first exchanged/disclosed. So, for example, witnesses or exhibits disclosed on Monday morning shall be objected to no later than 7:00 p.m. PDT that Monday evening.

EXHIBITS

Plaintiff intends to present exhibits in electronic format.

Plaintiff's Exhibits					
Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
001	CPF0001186 (Champion Petfoods Standard Answers and CPF Language)			X	
002	CPF0001868 (Label: Acana Heritage Freshwater Fish)	X			
003	CPF0001874 (Label: Acana Singles Duck & Pear)	X			
004	CPF0001876 (Label: Acana Singles Lamb & Apple)	X			
005	CPF0001880 (Label: Acana Singles Pork & Squash)	X			
006	CPF0001891 (Label: Acana Regionals Wild Atlantic)	X			
007	CPF0001894 (Label: Acana Regionals Grasslands)	X			
008	CPF0001912 (Orijen Regional Red Label)		X		
009	CPF0001967 (Label: Orijen Six Fish)	X			
010	CPF0002842 (Label: Acana Regionals Meadowland)	X			
011	CPF0017614 (Sales data, 2013-2016)		X		
012	CPF0017743 (Sales data, 2017-2018)		X		
013	CPF0026302 (Shipping-related documents, dated July 24, 2016)		X		

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
014	CPF0026315 (Shipping-related documents, dated July 7, 2016)	X			
015	CPF0028106 (Shipping-related documents, dated August 23, 2016)		X		
016	CPF0041983 (Shipping-related documents, dated July 29, 2017)	X			
017	CPF0046980 (Shipping-related documents, dated November 17, 2017)		X		
018	CPF0050514 (Shipping-related documents, dated January 28, 2018)	X			
019	CPF0050936 (Shipping-related documents, dated February 1, 2018)		X		
020	CPF0052578 (Shipping-related documents, dated March 1, 2018)		X		
021	CPF0057885 (Sales data 2016-2018)		X		
022	CPF0058305 (E-mail communications, dated December 2009-January 2010)		X		
023	CPF0058330 (Document titled, "The BEST Just Got BETTER!")		X		
024	CPF0058333 (Document titled, "New! ACANA Grain-Free Foods, Formula and Packaging Improvements")		X		
025	CPF0066047 (E-mail communications, dated April 17, 2013)		X		
026	CPF0066547 (Customer complaint, dated June 24, 2013)		X		
027	CPF0070798 (E-mail communications, dated March 2014)		X		

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
028	CPF0071726 (E-mail communications, dated 2014-04-26)		X		
029	CPF0073082 (E-mail communications, dated July 15, 2014)		X		
030	CPF0076315 (E-mail communications, dated January 2018)		X		
031	CPF0079288 (E-mail communications, dated September 13, 2011)		X		
032	CPF0079320 (Formula costing document)		X		
033	CPF0081519 (Project Greyhound- Roles and Processes Chart Descriptions)		X		
034	CPF0083262 (Orijen Brand Guidelines)		X		
035	CPF0085333 (2009 Champion announcement regarding changes to Acana)		X		
036	CPF0088177 (Letter, dated March 4, 2015)		X		
037	CPF0089958 (Project Application Form for 2015 Shelf Life Study, dated December 10, 2014)	X			
038	CPF0091108 (Manufacture Description and Flow Chart)		X		
039	CPF0092151 (Document titled, "One Page Plan 2015-2017")		X		
040	CPF0092581 (E-mail communications, dated August 19, 2015)		X		

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
041	CPF0095516 (Document titled, "Consolidated Standards for Inspection: Prerequisite and Food Safety Programs")		X		
042	CPF0099579 (E-mail communications, dated March 17, 2016)		X		
043	CPF0102953 (Document titled "Standard Operating Procedure," dated 5/10/2016)	X			
044	CPF0142858 (Supplier list)		X		
045	CPF0145434 (2017-01-13 Brand Finance US Dog Pet Food Survey)		X		
046	CPF0145472 (Document titled, "Brand Finance U.S. Dog Pet Food Survey," dated January 13, 2017)		X		
047	CPF0151221 (E-mail communications, April 11, 2017)		X		
048	CPF0171009 (E-mail Communications, dated April 29, 2017)		X		
049	CPF0190994 (E-mail communications, dated May 9, 2017)		X		
050	CPF0209717 (Acana Brand Guidelines)		X		
051	CPF0209796 (E-mail communications, dated May 16, 2017)		X		
052	CPF0213615 (E-mail communications dated May-June 2017)		X		
053	CPF0214027 (E-mail communications, dated June 30, 2017)		X		
054	CPF0214050 (Regrinds usage chart, updated May 30, 2016)		X		

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
055	CPF0216726 (Audio script)		X		
056	CPF0219329 (Document titled, "Market Trend Analysis Q3, 2017")		X		
057	CPF0220192 (Document titled, "Acana Regionals, Five Year Plan")		X		
058	CPF0221173 (2018 audience research)		X		
059	CPF0228757 (Document titled, "Kentucky Greyhound Project," dated March 7, 2015)		X		
060	CPF0244035 (E-mail communications, dated August 29, 2016)		X		
061	CPF0249062 (Ingredient supplier list)	X			
062	CPF0250646 (Unmatched Fresh Regional Ingredients: Champion Petfoods- BAFRINO Training Module 3)		X		
063	CPF0254858 (E-mail communications, dated September 2017)		X		
064	CPF0255008 (Document titled, "National Industry PIJAC Show 2017: Goals and Outcomes")		X		
065	CPF0255511 (Document titled, "GROW Working Relationships," dated September 13, 2017)		X		
066	CPF0256021 (Vendor Questionnaire - Farm Brands)		X		
067	CPF0256512 (E-mail communications, dated September 2017 - November 2017)		X		
068	CPF0257792 (Document titled "2018 Product Strategy")		X		

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
069	CPF0258099 (Champion Petfoods 2018 Product Strategy)		X		
070	CPF0258386 (Document titled, "Project Morningstar, Board Update - Draft," dated February 6, 2018)		X		
071	CPF0301299 (Quality Assurance Product Release Form, dated October 21, 2011)		X		
072	CPF0308820 (Quality Assurance Product Release Form, dated January 26, 2012)		X		
073	CPF0425176 (Quality Assurance Product Release Form, dated May 31, 2014)		X		
074	CPF0435932 (Quality Assurance Product Release Form, dated August 29-30, 2014)		X		
075	CPF0446514 (Quality Assurance Product Release Form, dated October 11, 2014)		X		
076	CPF0537694 (Quality Assurance Product Release Form, dated February 28, 2015)		X		
077	CPF0551343 (Quality Assurance Product Release Form, dated March 19, 2015)		X		
078	CPF0570504 (Quality Assurance Product Release Form, dated April 15, 2015)		X		
079	CPF0840714 (Quality Assurance Product Release Form, dated October 4, 2016)		X		
080	CPF1160682 (E-mail communications, dated August 18, 2011)		X		

PRETRIAL ORDER

Case No. 2:18-CV-01578-TSZ

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
081	CPF1175497 (E-mail communications, dated October 14, 2014)		X		
082	CPF1177144 (E-mail communications, dated December 2014)		X		
083	CPF1178745 (E-mail communications, dated March 2015)		X		
084	CPF1178746 (Supplier affidavit, dated March 11, 2015)		X		
085	CPF1183880 (E-mail communications, dated November 4-5, 2015)		X		
086	CPF1280150 (E-mail communications, dated October 2017)		X		
087	CPF1285706 (SQF Audit Report, dated February 19, 2018)	X			
088	CPF1286058 (Document titled, "International Market Development")		X		
089	CPF1292285 (E-mail communications, dated March 12-13, 2013)		X		
090	CPF1294360 (Document titled, "President's Club: Champion Petfoods")		X		
091	CPF1295489 (E-mail communications, dated October and November 2013)		X		
092	CPF1297395 (E-mail communications, dated March 10, 2014)		X		
093	CPF1302880 (E-mail communications, dated October 2014)		X		
094	CPF1306862 (E-mail communications, dated January 2015)		X		

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
095	CPF1306889 (E-mail communications, dated January 2015)		X		
096	CPF1308778 (E-mail communications, dated February 2015)	X			
097	CPF1309909 (E-mail communications, dated February-March 2015)	X			
098	CPF1318639 (Letter, dated April 14, 2015)		X		
099	CPF1345493 (Document titled "Hazard Analysis" dated 9/21/2017)		X		
100	CPF1348192 (Ingredient lists for Acana and Orijen diets)		X		
101	CPF1349276 (Letter from FDA, dated February 26, 2018)		X		
102	CPF1515963 (Shipping-related documents, dated May 13, 2016)		X		
103	CPF1522005 (Shipping-related documents, dated June 29, 2016)		X		
104	CPF1710595 (E-mail communications, dated December 9, 2015)		X		
105	CPF1710931 (E-mail communications, dated December 16, 2015)		X		
106	CPF1714695 (Regrinds usage chart, updated December 31, 2015)		X		
107	CPF1716566 (E-mail communications, dated February 18, 2016)		X		
108	CPF1717808 (Laboratory Shift Report, dated March 10, 2016)		X		

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
109	CPF1717891 (Laboratory Shift Report, dated March 14, 2016)		X		
110	CPF1719560 (E-mail communications, dated May 12, 2016)	X			
111	CPF1719813 (E-mail communications, dated April and May 2016)		X		
112	CPF1720401 (E-mail, dated April-May 2016)		X		
113	CPF1724306 (E-mail communications, dated June 10, 2016)		X		
114	CPF1739091 (QA Floor Shift Report, dated November 8, 2016)		X		
115	CPF1739605 (E-mail communications, dated November 30, 2016)		X		
116	CPF1741216 (Laboratory Shift Report, dated January 2, 2017)		X		
117	CPF1748700 (E-mail communications, dated March 20, 2017)	X			
118	CPF1748855 (Document titled, "DOGSTAR FAQs")		X		
119	CPF1758303 (E-mail communications, dated May 2, 2017)		X		
120	CPF1762571 (Document titled, "Attribute Values and Their Relationships")		X		
121	CPF1764319 (E-mail communications, dated June, August, and September 2017)		X		

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
122	CPF1765264 (E-mail communication, dated September-October 2017)		X		
123	CPF1767149 (E-mail communications, dated December 2017)		X		
124	CPF1768703 (E-mail communications, dated February 2018)		X		
125	CPF1768707 (Regulations revisions)		X		
126	CPF1770001 (QA Floor Shift Report, dated February 25, 2018)		X		
127	CPF1781155 (Application for a shelf life study in 2015)	X			
128	CPF1781382 (E-mail communications, dated June 2016)		X		
129	CPF1781475 (E-mail communications, dated June 2016)		X		
130	CPF1781852 (E-mail communications, dated June 2016)		X		
131	CPF1783582 (E-mail communications, dated September 1, 2016)		X		
132	CPF1784617 (E-mail communications, dated 2016-09-09)		X		
133	CPF1784652 (E-mail communications, dated September 1, 2016)		X		
134	CPF1786936 (E-mail communications, dated November 19, 2016)		X		

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
135	CPF1788961 (E-mail communications, dated December 14, 2016)		X		
136	CPF1789156 (E-mail communications, dated December 2016)		X		
137	CPF1789171 (E-mail communications, dated December 19, 2016)		X		
138	CPF1798452 (E-mail communications, dated March 14, 2017)		X		
139	CPF1800577 (Document titled, "DogStar FAQs")		X		
140	CPF1803444 (E-mail communications, dated May 24-25, 2017)	X			
141	CPF1806991 (Champion Petfoods Corporate Video, dated July 12)		X		
142	CPF1807782 (Document titled, "DogStar FAQs")		X		
143	CPF1812999 (E-mail communications, dated September 7, 2017)		X		
144	CPF1813063 (Document titled "Team USA Report," dated August 2017)		X		
145	CPF1817441 (Document titled, "US B2C Pilot Strategy")		X		
146	CPF1817671 (E-mail communications, dated November 2017)		X		
147	CPF1817708 (E-mail communications, dated November 2017)		X		
148	CPF1823546 (Document titled, "Pet Food Market Assessment")		X		

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
149	CPF1825639 (Document entitled "Revision Requests-Regulations")		X		
150	CPF1826327 (E-mail communication, dated February 15, 2016)		X		
151	CPF1826604 (Document titled "Project Morningstar: Opportunity Overview," dated February 2018)		X		
152	CPF1829624 (E-mail communications, dated August 17, 2011)		X		
153	CPF1833588 (E-mail communications, dated March 10, 2014)		X		
154	CPF1837923 (Document titled "Regulatory Incident Questionnaire," dated June 6, 2015)		X		
155	CPF1841061 (E-mail communications, dated November 4, 2016)		X		
156	CPF1842564 (Deloitte Accountant's Report, dated January 12, 2016)		X		
157	CPF1873365 (E-mail communications dated August 23, 2010)		X		
158	CPF1936913 (E-mail communications, dated November 1, 2011)		X		
159	CPF1941121 (E-mail communications, dated December 6, 2011)		X		
160	CPF1941300 (Document titled "Product Authenticity Risk Management")		X		
161	CPF1949251 (E-mail communications, dated October 12, 2016)		X		

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
162	CPF1958871 (Document titled, "Viva Las Vegas: Superzoo 2016")		X		
163	CPF1973651 (Champion Petfoods Management Presentation)		X		
164	CPF1973904 (Document titled "Project Morningstar Norfolk Operational Due Diligence Call")		X		
165	CPF1973922 (Document titled "Project Morningstar Norfolk Operational Due Diligence Call")		X		
166	CPF1981389 (E-mail communications, dated September 2017)		X		
167	CPF1999067 (Document titled, "Our Foundation: Our Guiding Principles," dated August 9, 2018)		X		
168	CPF2003781 (Document titled, "Agri-Business Automation and Lean Manufacturing Application Form")		X		
169	CPF2004325 (Document titled, "CPF Value Statement")		X		
170	CPF2008170 (E-mail communications, dated November 28, 2011)		X		
171	CPF2011289 (Document titled, "Agri-Business Automation and Lean Manufacturing Application Form")		X		
172	CPF2011360 (Document titled, "Agri-Business Automation and Lean Manufacturing Application Form")		X		

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
173	CPF2015010 (E-mail communications dated July 1, 2013)		X		
174	CPF2024487 (Document titled, "SQF Level 2 GAP Assessment," dated June 6-8, 2016)	X			
175	CPF2025929 (Document titled "Regulatory Affairs Strategic Plan 2017-2022")		X		
176	CPF2028694 (Document titled, "Creative Services")		X		
177	CPF2047936 (Champion Petfoods Response to South African Regulatory Authorities, dated January 15, 2016)		X		
178	CPF2055446 (Laboratory Shift Report, dated September 8, 2015)		X		
179	CPF2057754 (Myths and Misconceptions: Champion Petfoods- BAFRINO Training Module 5)		X		
180	CPF2062755 (QA Floor Shift Report, dated November 12, 2017)		X		
181	CPF2067153 (QA Floor Shift Report, dated March 24, 2018)		X		
182	CPF2072411 (E-mail Correspondence, dated January 18, 2016)		X		
183	CPF2073241 (Document titled, "BAFRINO")		X		
184	CPF2074069 (E-mail communications, dated July 13, 2016)		X		
185	CPF2074587 (Supplier checklist)		X		
186	CPF2087494 (E-mail communications, dated October 12, 2017)		X		

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
187	CPF2088727 (Champion Petfoods Orijen Product Concept, dated January 3, 2018)		X		
188	CPF2092037 (Champion Petfoods Acana Singles Marketing Launch Plan, dated April 25, 2018)		X		
189	CPF2100546 (E-mail communications, dated November 20, 2015)		X		
190	CPF2113159 (Champion Petfoods Project Morningstar Financial Model, dated March 15, 2018)		X		
191	CPF2113257 (E-mail communications, dated March 19, 2018)		X		
192	CPF2115078 (Document titled, "Global Pet Outcomes")		X		
193	CPF2116940 (Document titled, "Your Questions Answered")		X		
194	CPF2117040 (MSRP by state, 2016-2018)		X		
195	CPF2117189 (Supplier list, risk, audit plan, dated July 22, 2013)		X		
196	CPF2117612 (Champion Petfoods Supplier Audit for Certified Approval, dated June 8, 2018)		X		
197	CPF2117800 (Settlement Calculations)		X		
198	CPF2129877 (Regrinds Spreadsheet)		X		
199	CPFB00032 (Label: Acana Heritage Free Run Poultry)		X		
200	CPFB00033 (Label: Acana Heritage Free Run Poultry)		X		

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
201	CPFB00034 (Label: Acana Heritage Freshwater Fish)		X		
202	CPFB00035 (Label: Acana Heritage Freshwater Fish)		X		
203	CPFB00036 (Label: Acana Heritage Meats)		X		
204	CPFB00039 (Label: Acana Regionals Grasslands)		X		
205	CPFB00040 (Label: Acana Regionals Grasslands)		X		
206	CPFB00042 (Label: Acana Regionals Meadowland)		X		
207	CPFB00043 (Label: Acana Regionals Meadowland)		X		
208	CPFB00044 (Label: Acana Regionals Wild Atlantic)		X		
209	CPFB00045 (Label: Acana Regionals Wild Atlantic)		X		
210	CPFB00046 (Label: Acana Singles Duck & Pear)		X		
211	CPFB00047 (Label: Acana Singles Duck & Pear)		X		
212	CPFB00050 (Label: Acana Singles Lamb & Apple)		X		
213	CPFB00052 (Label: Acana Singles Lamb & Apple)		X		
214	CPFB00056 (Label: Acana Singles Pork & Squash)		X		
215	CPFB00057 (Label: Acana Singles Pork & Squash)		X		
216	CPFB00084 (Label: Orijen Six Fish)		X		
217	CPFB00088 (Label: Orijen Six Fish)		X		
218	CPFB00089 (Label: Orijen Six Fish)		X		

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
219	1006 Exhibit - Plaintiff Claim Count Chart		X		
220	1006 Exhibit - Acana and Orijen ingredients and suppliers		X		
221	1006 Exhibit - Expert Boedeker Survey Results		X		
222	1006 Exhibit - Sales Data		X		
223	1006 Exhibit - Comparing Statements on Acana Dog Food Packaging		X		
224	1006 Exhibit - Comparing Statements on Orijen Dog Food Packaging		X		
225	1006 Exhibit - Expired Ingredients		X		
226	1006 Exhibit - Frozen Ingredients		X		
227	1006 Exhibit - Six Fish ingredients and suppliers		X		
228	1006 Exhibit - Summarizing regrind use with diets manufactured at DogStar and purchased by Plaintiff Rydman		X		
229	2017 Pet Food Industry Top 50 Pet Food Companies		X		
230	2018 Pet Food Industry Top 50 Pet Food Companies		X		
231	2018-01-16 Article: How Once-Tiny Pet-Food Maker Took a Bite of the Global Market		X		

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
232	2018-11-16 Defendants Responses and Objections to Plaintiffs' First Set of Interrogatories - <i>Reitman</i>		X		
233	2019-07-16 Defendants' Responses and Objections to Plaintiffs' First Set of Requests for Admissions - <i>Reitman</i>		X		
234	2019-07-16 Defendants Responses and Objections to Plaintiffs' Second Set of Interrogatories - <i>Reitman</i>		X		
235	2019-11-15 Defendants Response to Plaintiffs' Statement of Uncontroverted Facts and Conclusions of Law - <i>Reitman</i>		X		
236	2020-08-17 Defendants Responses and Objections to Plaintiffs' First Request for Admissions - <i>Song</i>		X		
237	All documents relied on by Stefan Boedeker		X		
238	All documents relied on by Bruce Silverman		X		
239	All exhibits used in any 1006 exhibit		X		
240	2021-01-08 Article: Champion Petfoods Resolves Two Mislabeling Lawsuits		X		
241	Chewy Website showing Pedigree Dog Food		X		
242	Expert Report - Bruce Silverman (portions not excluded by the Court)		X		

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
243	Expert Report - Stefan Boedeker		X		
244	FDA Reportable Food Registry for Industry		X		
245	Total Diet Study, dated April 15, 2014, revised April 2017		X		
246	FDA Total Diet Study (2018-2020)		X		
247	2021-04-30 C. Ogbonna Declaration in Support of Defendants Response in Opposition to Plaintiff's Motion for Class Certification at Exhibit 1 - <i>Zarinebaf</i>		X		
248	RYDMAN000178 (Plaintiff Rydman's purchase receipts)	X			
249	Label: Acana Heritage Free-Run Poultry (CPF webpage, 1/6/2023)		X		
250	(Document titled, "Champion Petfoods Natural Claims")		X		
251	Photographs of Orijen and Acana Dog Food taken in 2019 with counsel for both parties present.			X	
252	CPF1285113 (E-mail communications, dated January 2018)		X		
253	CPF0221419 (Orijen Champion Five Year Plan (All Markets))		X		
254	CPF1932836 (Acana Singles Five Year Plan (All Markets))		X		

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
255	CPF2088776 (Acana Heritage Five Year Plan (DogStar))		X		
256	CPF2088826 (Acana Regionals Five Year Plan (All Markets))		X		
257	CPF1166607 (Procedure: Rework Handling, Flavour Infusion & Repack, effective March 14, 2011)		X		
258	CPF0220583 (Champion Food Safety Manual, dated September 21, 2017)	X			
259	2018-07-06 Article: Champion Petfoods Comments on Nestle Acquisition Speculation			X	
260	2017-07-02 Article: Nestle in Talks to Buy Pet-Food Maker for \$2 Billion			X	
261	2022-11-01 Article: Mars Petcare to Purchase Orijen and Acana			X	
262	CPF0079262 (Report dated September 6, 2011)		X		
263	CPF0079270 (Spreadsheet, dated April 2007 – May 2011)		X		
264	CPF0079273 (Spreadsheet, dated January – June 2011)		X		
265	CPF0079281 (Spreadsheet dated September 2011)		X		
266	CPF0082963 (Product development presentation dated November 2014)		X		
267	CPF1997241 (E-mail communications, dated November 30, 2017)		X		

Plaintiff's Exhibits

Ex. No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated / Admissibility Disputed	Authenticity Disputed	Admitted
268	CPF2006163 (Letter to Export Partners, dated September 25, 2010)		X		
269	CPF2020429 (Acana Heritage Pricing Guide, dated August 2015)		X		
270	CPF2027859 (Launch package, dated October 2016)		X		
271	CPF2095939 (Acana suggested retail prices, dated September 2015)		X		
272	CPF0100358 (E-mail communications, dated March 2016)		X		
273	CPF1724462 (Regrinds usage chart, updated October 30, 2014)		X		
274	CPF1739482 (E-mail communications, dated November 18, 2016)		X		
275	CPF1764572 (Document titled, "Ingredient Specification Form - Fats and Oils, effective February 24, 2017")		X		

Defendant intends to present exhibits in electronic and/or paper format.

Defendant's Exhibits

Ex No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated/ Admissibility Disputed	Authenticity Disputed	Admitted
300.	2016 DogStar ORIEN Six Fish label (CPFB00084)	X			
301.	2017 DogStar ORIEN Six Fish	X			

Defendant's Exhibits					
Ex No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated/ Admissibility Disputed	Authenticity Disputed	Admitted
	label (CPFB00088; Pl. Depo Ex. 11)				
302.	2016-2017 DogStar ACANA Regionals Grasslands label (CPFB00039; Pl. Depo Ex. 14)	X			
303.	2016-2017 DogStar ACANA Regionals Meadowland label (CPFB00042; Pl. Depo Ex. 19)	X			
304.	2016-2017 DogStar ACANA Regionals Wild Atlantic (CPFB00044; Pl. Depo Ex. 13)	X			
305.	2016-2017 DogStar ACANA Singles Lamb & Apple label (CPFB00050; Pl. Depo Ex. 15)	X			
306.	2016-2017 DogStar ACANA Singles Pork & Squash label (CPFB00056; Pl. Depo Ex. 20)	X			
307.	2016-2017 DogStar ACANA Singles Duck & Pear label (CPFB00046; Pl. Depo Ex. 16)	X			
308.	2016-2017 DogStar ACANA Heritage Free-Run Poultry label (CPFB00032; Pl. Depo Ex. 18)	X			
309.	2016-2017 DogStar ACANA Heritage Red Meat label (CPFB00036; Pl. Depo Ex. 17)	X			
310.	2016-2017 DogStar ACANA Heritage Freshwater Fish (CPFB00034; Pl. Depo Ex. 12)	X			
311.	2014 NorthStar ACANA Singles		X		

PRETRIAL ORDER

Case No. 2:18-CV-01578-TSZ

Defendant's Exhibits					
Ex No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated/ Admissibility Disputed	Authenticity Disputed	Admitted
	Lamb & Apple (CPFB00054) (for impeachment)				
312.	1980s ACANA Striped Bag images		X		
313.	1990s ACANA Blue Bag		X		
314a.	Silverman Dep. November 24, 2020 Ex. 2		X		
314b.	Silverman Dep. November 24, 2020 Ex. 3		X		
315.	DogStar Suppliers Map (CPF0249064)	X			
316.	Aug. 14, 2015 Letter from C. Ogbonna to L. Higgins bags (CPF0000022)		X		
317a.	AAFCO 2016 Publication Fresh Definition			X	
317b.	AAFCO 2016 Publication Raw Definition			X	
318.	AAFCO 2016 Publication Made With Definition			X	
319.	December 14, 2016 SQFI Audit Report of DogStar (CPF0216056)		X		
320.	21 C.F.R. Ch. 507 excerpt		X		
321.	21 C.F.R. Ch. 110 excerpt		X		
322.	USDA Food Standards and Labeling Policy Book August 2005		X		
323.	RESERVED				
324.	RESERVED				
325.	RESERVED				
326.	RESERVED				
327.	Feb. 14, 2017 Letter from GFSI to		X		

Defendant's Exhibits					
Ex No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated/ Admissibility Disputed	Authenticity Disputed	Admitted
	G. Hettiarachchi (CPF0057883)				
328.	DogStar Tour PowerPoint (CPF1822967)		X		
329.	Certificate of Registration, SQF Level 2 Award to DogStar (CPF0057882)		X		
330.	Certificate of Registration, SQF Award for Manufacturing to DogStar (CPF0057884)		X		
331.	Design Build Award Article (CPF0212760)			X	
332.	Video - Our Commitment to Safe Quality Foods (CPF1873005)		X		
333.	Images of exterior and interior of DogStar Kitchen (from produced documents)			X	
334.	Champion Consumer Program (Ex. 3 to Rydman Depo) RYDMAN000103			X	
335.	Fluffy and Floyd's Redacted Frequent Buyer Cards (Ex. 4 to Rydman Depo)	X			
336.	Mud Bay purchase history (Ex. 5 to Rydman Depo)	X			
337.	Fluffy and Floyd's Receipts (Ex. 6 to Rydman Depo)	X			
338.	Amazon Receipts (Ex. 8 to Rydman Depo) RYDMAN000107-RYDMAN000169	X			

Defendant's Exhibits					
Ex No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated/ Admissibility Disputed	Authenticity Disputed	Admitted
339.	Mud Bay Receipts (Ex. 9 to Rydman Depo) RYDMAN000171- RYDMAN000177	X			
340.	Plaintiff Rydman Responses to Interrogatories		X		
<u>Conditional Heavy Metal and Pentobarbital Exhibits:⁴</u>					
341.	Champion Petfoods USA, Inc. Establishment Inspection Report, dated May 16, 2018, Jim Wagner Deposition Ex. 4		X		
342.	Champion Petfoods Ingredient Specification Form - Dry Protein, dated February 24, 2017, Gilmurray Deposition Ex. 18		X		
343.	Champion Petfoods Ingredient Specification Form - Fats and Oils, dated February 24, 2017, Gilmurray Deposition Ex. 19		X		
344.	Pennsylvania Department of Agriculture Bureau of Plant Industry Letter from David Dressler to Champion Petfoods USA, Inc. re: inspection conducted on April 11, 2018 at		X		

⁴ Plaintiff objects to all the conditional exhibits as irrelevant unless Defendant opens the door into these issues.

Defendant's Exhibits					
Ex No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated/ Admissibility Disputed	Authenticity Disputed	Admitted
	JBS/MOPAC, dated May 7, 2018, Gilmurray Deposition Ex. 21				
345.	TVMDL Final Report by Mays, dated May 18, 2018 (CPF2118823-CPF2118824)		X		
346.	Email from Ken Gilmurray to Chris Milam, Michael Bracella re: Vendor Questionnaire, dated August 19, 2016, Gilmurray Deposition Ex. 6 (CPF2118340-CPF2118347)		X		
347.	Email from Ken Gilmurray to Jamie Kratchkowski, cc: Chris Milam re: Ingredient and Supplier Development Form, dated June 9, 2017, Gilmurray Deposition Ex. 7 (JBS0022275-JBS0022289)		X		
348.	Exponent Risk Assessment Memo		X		
349.	National Research Council, Mineral Tolerance of Animals, 2d Rev. Ed., 2005		X		
350.	FDA Target Animal Safety Review Memorandum June 15, 2011 (CPF0075130)		X		
351.	Directive 2002/32/EC of the European		X		

Defendant's Exhibits					
Ex No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated/ Admissibility Disputed	Authenticity Disputed	Admitted
	Parliament (CPF0000225)				
352.	Commission Regulation (EC) No. 1881/2006 (CPF0000237)		X		
353.	Periodic Table of Elements		X		
354.	April 2014 FDA Total Diet Study - Market Baskets 2006 – 2013 (CPF0000912)		X		
355.	July 2022 FDA Total Diet Study with 2018 – 2020 data		X		
356.	July 2022 FDA Total Diet Study Supplemental Data		X		
357.	January 5, 2009 Email from D. Mick to J. Johnston (CPF1828020)		X		
358.	July 25, 2009 Email from M. Bailey to J. Johnston (CPF0058255)		X		
359.	March 15, 2011 Email from S. Brown to J. Johnston (CPF0060142)		X		
360.	May 19, 2011 Email from J. Johnston to D. Mick (CPF1829442)		X		
361.	April 28, 2017 Email from S. Brown to G. Hettiarachchi (CPF0171009)		X		
362.	May 9, 2017 Email from G. Hettiarachchi to S. Brown (CPF0190994)		X		

Defendant's Exhibits					
Ex No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated/ Admissibility Disputed	Authenticity Disputed	Admitted
363.	White Paper on Heavy Metals (CPF2089850)		X		
364.	Data underlying White Paper (CPF1252530)		X		
365.	2017 DogStar Monthly Testing Schedule (CPF1801450)		X		
366.	2016 DogStar Monthly Testing Schedule (CPF1801451)		X		
367.	Ellipse Certificates of Analysis for Heavy Metals and BPA levels alleged in the Complaint (CALLAN00001-32)		X		
368.	FRE 1006 Composite Exhibit – Eurofins Certificates of Analysis for Heavy Metals Testing on Ingredients from 2014 to 2018		X		
369.	FRE 1006 Composite Exhibit – Eurofins Certificates of Analysis for Heavy Metals Testing on Finished Food from 2011 to 2018		X		
370.	Eurofins Laboratory Accreditation (Eurofins001174-1186)		X		
371.	FRE 1006 Composite Exhibit – Silliker Certificates of Analysis for Heavy Metals Testing on		X		

Defendant's Exhibits					
Ex No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated/ Admissibility Disputed	Authenticity Disputed	Admitted
	Finished Food from 2008 to 2018				
372.	FRE 1006 Composite Exhibit – Maxxam Certificates of Analysis for Heavy Metals Testing on Finished Food from 2009 to 2018		X		
373.	FRE 1006 Composite Exhibit – ALS Marshfield Certificates of Analysis with Key ID for Heavy Metals Testing on 69 Competitor Dog Food Samples During Course of Litigation		X		
374.	ISUVDL heavy metals testing on Champion dog food (Table 3 of Pusillo Safety Report)		X		
375.	FRE 1006 Composite Exhibit – Eurofins Certificates of Analysis for Organic Arsenic and Inorganic Arsenic Levels Measured in Champion's Dog Food During the Course of Litigation – Asked Poppenga		X		
376.	RESERVED				
377.	Deemy, M. and Benjamin, L. (2019): CVM CY15-17 Report on Heavy Metals in Animal Food, United States Food		X		

Defendant's Exhibits					
Ex No.	Description of Exhibit or Demonstrative	Admissibility Stipulated	Authenticity Stipulated/ Admissibility Disputed	Authenticity Disputed	Admitted
	and Drug Administration				
378.	Kelly D.G., White, S.D. and Weir, R.D (2013): Elemental composition of dog foods using nitric acid and simulated gastric digestions. Food and Chemical Toxicology, 55:568-577.		X		
379.	Kim, H., Loftus, J.P., Mann, S. and Wakshlag, J.J. (2018): Evaluation of arsenic, cadmium, lead and mercury contamination in over-the-counter available dry dog foods with different animal ingredients (red meat, poultry, and fish). Frontiers in Veterinary Science, 5:264.		X		
380.	Paulelli, A., Martins, Jr., A., de Paula, E. <i>et al.</i> , (2018): Risk assessment of 22 chemical elements in dry and canned pet foods. Journal of Consumer Protection and Food Safety, 13:359-365.		X		

(No party is required to list any exhibit which is listed by another party, or any exhibit to be used for impeachment only. See LCR 16 for further explanation of numbering of exhibits).

DEPOSITION DESIGNATIONS

Plaintiff will be designating the deposition transcripts of the following individuals, as identified in the highlighted transcripts (Dkt. 173).

1. Arnold, Jason Keith 2018-11-01 (Loeb)
2. Arnold, Jason Keith 2018-11-27 (30)(b)(6)
3. Brown Tarry, Sarah 2018-12-05 (30)(b)(6) and (30)(b)(1)
4. Caswell, Christine 2018-10-24 (Loeb)
5. Ellison, Jonathan 2018-12-05 (30)(b)(6)
6. Ferrell, Ricky 2018-11-28
7. Flowers, Amanda 2018-11-02 (Loeb)
8. Flowers, Amanda 2018-11-27
9. Flowers, Amanda 2018-11-27 (30)(b)(6)
10. Gerow, Bonnie 2018-10-23 (Loeb)
11. Gerow, Bonnie 2018-12-05
12. Gerow, Bonnie 2018-12-05 (30)(b)(6)
13. Hettiarachchi, Gayan 2018-12-06 (30)(b)(1) and (30)(b)(6)
14. Ogbonna, Chinedu 2018-12-07 (30)(b)(6)
15. Ogbonna, Chinedu 2019-02-05 (Loeb)
16. Raposo, Richard 2018-10-25 (Loeb)
17. Raposo, Richard 2018-12-04 (30)(b)(6) and (30)(b)(1)
18. Wagner, Jim 2019-04-03 (30)(b)(6)
19. Washington, Julie 2018-12-05

Champion states that it does not intend to offer deposition designations at trial, with the exception of those offered solely for rebuttal and/or impeachment should the need arise during trial and counter-designations offered in response to Plaintiff's deposition designations.

JURY, *VOIR DIRE* AND OPENING STATEMENTS

1 The Parties have agreed to a jury of eight jurors and three peremptory strikes
2 subject to approval by the Court. Defendant objects to conducting *voir dire* via Zoom and both
3 Parties object to conducting opening statements via Zoom.

4
5 **ACTION BY THE COURT**

6 (a) This case is scheduled for trial before a jury on April 2, 2024, at 9:00 a.m.

7
8 (b) Trial briefs shall be submitted to the court on or before March 15, 2024.

9 (c) Jury instructions requested by either party shall be submitted to the court on or
10 before March 15, 2024. Suggested questions of either party to be asked of the jury
11 by the court on *voir dire* shall be submitted to the court on or before March 15,
12 2024.

13 This order has been approved by the parties. This order shall control the subsequent course of the
14 action unless modified by a subsequent order. This order shall not be amended except by order of
15 the court pursuant to agreement of the parties or to prevent manifest injustice.
16

17 DATED this 25th day of March, 2024.

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20 JOHN H. CHUN
21 UNITED STATES DISTRICT JUDGE
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